

LEG/SUR

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OLL 85-2193/2  
31 July 1985

MEMORANDUM FOR: D/OS  
DDA  
C/ALD/OGC  
D/CP

FROM:

Legislation Division  
Office of Legislative Liaison

STAT

SUBJECT: Request for Views - S. 1347 - Access to  
State and Local Criminal Records

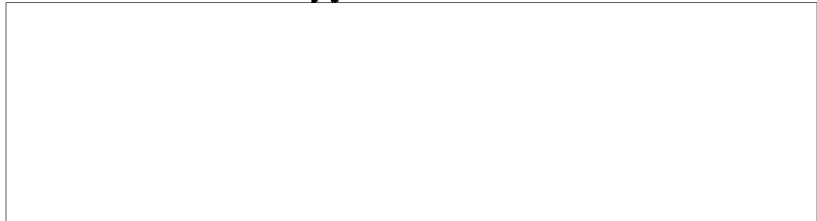
1. Attached for your review and comment, please find a copy of: S. 1347; a letter from Senator Roth, Chairman of the Senate Governmental Operations Committee requesting the Agency's view on S. 1347; and, a copy of a draft response to Senator Roth on behalf of the Agency from the Director, Office of Legislative Liaison.

2. You will recall that earlier the Agency's views on this legislation were solicited by a staff member of the Senate Armed Services Committee and the Agency responded that it favored such legislation. On the basis of that response, we understand that the provisions of S. 1347 will be added to S. 1281, the Intelligence Authorization Act for Fiscal Year 1986, by the Senate Armed Services which currently has that Bill before it on referral. Nevertheless, the Agency must respond to Senator Roth's request for views as the Bill is properly before his Committee. We do anticipate, however, that the legislation will see floor action via the Intelligence Authorization Act route and not via Senator Roth's Committee.

3. As the Agency's views letter will have to be cleared by the Office of Management and Budget prior to its transmission to Senator Roth, and the Senator has asked to receive the

Agency's views by 12 August, we ask to receive your views by 6 August 1985.

4. Your prompt cooperation is most appreciated.




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Attachment  
as stated

Distribution:

Original	Addressees	w/atts
1	- D/OLL	"
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LEG/OLL  (2 August 1985)

STAT



1           (1) that under the Constitution, Congress has the  
2       responsibility and power to provide for the common de-  
3       fense and security of our Nation;

4           (2) that the interests of national security require  
5       that the Department of Defense, the Office of Person-  
6       nel Management, or the Central Intelligence Agency  
7       conduct investigations of individuals for the purpose of  
8       determining eligibility for access to classified informa-  
9       tion, assignment to or retention in sensitive national  
10      security duties, or acceptance or retention in the armed  
11      services;

12          (3) that the interests of national security require  
13      that the Department of Defense, the Office of Person-  
14      nel Management, or the Central Intelligence Agency  
15      have access to criminal history record information  
16      when conducting investigations of individuals for the  
17      purpose of determining eligibility for access to classified  
18      information, assignment to or retention in sensitive na-  
19      tional security duties, or acceptance or retention in the  
20      armed services; and

21          (4) that the interests of national security have  
22      been adversely affected by the reluctance and refusal of  
23      many State and local criminal justice agencies to pro-  
24      vide criminal history record information to the Depart-  
25      ment of Defense, the Office of Personnel Management,

1 or the Central Intelligence Agency for use in investiga-  
2 tions of individuals for the purpose of determining eligi-  
3 bility for access to classified information, assignment to  
4 or retention in sensitive national security duties, or  
5 acceptance or retention in the armed services.

6 SEC. 3. Chapter 31 of title 10, United States Code, is  
7 amended by striking out section 520a and substituting the  
8 following:

9 **"§ 520a. Criminal history record information for national**  
10 **security purposes**

11 "(a) As used in this chapter:

12 "(1) The term 'criminal justice agency' includes  
13 Federal, State, and local agencies and means: (A)  
14 courts or (B) Government agency or any subunit  
15 thereof which performs the administration of criminal  
16 justice pursuant to a statute or Executive order, and  
17 which allocates a substantial part of its annual budget  
18 to the administration of criminal justice.

19 "(2) The term 'criminal history record informa-  
20 tion' means information collected by criminal justice  
21 agencies on individuals consisting of identifiable de-  
22 scriptions and notations of arrests, detentions, indict-  
23 ments, information, or other formal criminal charges,  
24 and any disposition arising therefrom, sentencing, cor-  
25 rection supervision, and release. The term does not in-

1       clude identification information such as fingerprint  
2       records to the extent that such information does not  
3       indicate involvement of the individual in the criminal  
4       justice system.

5               “(3) The term ‘classified information’ means infor-  
6       mation or material designated pursuant to the provi-  
7       sions of a statute or Executive order as requiring pro-  
8       tection against unauthorized disclosure for reasons of  
9       national security.

10              “(4) The term ‘State’ means any of the several  
11       States, the District of Columbia, the Commonwealth of  
12       Puerto Rico, the Northern Mariana Islands, Guam, the  
13       Virgin Islands, American Samoa, the Trust Territory  
14       of the Pacific Islands, and any other territory or pos-  
15       session of the United States.

16              “(5) The term ‘local’ and ‘locality’ means any  
17       local government authority or agency or component  
18       thereof within a State having jurisdiction over matters  
19       at a county, municipal, or other local government  
20       level.

21              “(b)(1) Upon request by the Department of Defense, the  
22       Office of Personnel Management, or the Central Intelligence  
23       Agency criminal justice agencies shall make available crimi-  
24       nal history record information regarding individuals under in-  
25       vestigation by the Department of Defense, the Office of Per-

1 sonnel Management, or the Central Intelligence Agency for  
2 the purpose of determining eligibility for (A) access to classi-  
3 fied information, (B) assignment to or retention in sensitive  
4 national security duties, or (C) acceptance or retention in the  
5 armed services. Fees charged for providing criminal history  
6 record information pursuant to this subsection shall not  
7 exceed those charged to other government agencies for such  
8 information.

9       “(2) This subsection shall apply notwithstanding any  
10 other provision of law or regulation of any State or of any  
11 locality within a State, or any other law of the United States.

12       “(c) The Department of Defense, the Office of Personnel  
13 Management, or the Central Intelligence Agency shall not  
14 obtain criminal history record information pursuant to this  
15 section unless it has received written consent from the indi-  
16 vidual under investigation for the release of such information  
17 for one or more of the purposes set forth in subsection (b).

18       “(d) Criminal history record information received under  
19 this section shall not be disclosed except for the purposes set  
20 forth in subsection (b) or as provided by section 552a of title  
21 5, United States Code.”.

22       SEC. 4. The amendments made by this Act shall become  
23 effective with respect to any inquiry which begins after the  
24 date of enactment of this Act conducted by the Department  
25 of Defense, the Office of Personnel Management, or the Cen-

6

1 tral Intelligence Agency for any of the purposes specified in  
2 subsection (b) of section 520a of title 10, United States Code,  
3 as added by this Act.

4 SEC. 5. The amendments made by this Act are made  
5 pursuant to the powers vested in Congress as found in sec-  
6 tion 8 of article I of the United States Constitution.

○



WILLIAM V. ROTH, JR., DELAWARE, CHAIRMAN

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# United States Senate

COMMITTEE ON  
GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510

Executive Registry

85- 2973

LEGISLATIVE LITTON

85-2193

July 12, 1985

The Honorable William J. Casey  
Director  
Central Intelligence Agency  
Washington, D.C. 20505

Dear Mr. Casey:

The enclosed copy of a bill which has been referred to the Committee on Governmental Affairs is sent for your review and comment. Your views concerning the provisions of this bill and recommendations for possible Committee action would assist us in our study of the measure.

In addition, Senate rules require each Committee to estimate the regulatory and paperwork impact of any legislation it reports. To assist the Committee in complying with this requirement, we would appreciate receiving your Agency's assessment of the possible paperwork and regulatory burdens which might result from the passage of the enclosed legislation.

We would greatly appreciate your providing us with your response within the next 30 days so that we might have it in time for Committee action.

Please address all correspondence to the attention of Gretta Graham, Committee on Governmental Affairs (224-4751).

Thank you for your participation in this effort.

Sincerely,

*Bill Roth*  
William V. Roth, Jr.  
Chairman

WVR/jm

Central Intelligence Agency

**DRAFT**



Washington, D.C. 20505

The Honorable William V. Roth, Jr.  
Chairman  
Committee on Governmental Affairs  
United States Senate  
Washington, D.C. 20510

Dear Chairman Roth:

I am most pleased to be able to respond to your letter requesting comments on S. 1347, a bill to provide access by the Department of Defense, the Office of Personnel Management and the Central Intelligence Agency to state and local criminal history record information for national security purposes.

The Agency supports this legislation. Currently, state and local laws governing access to criminal history record information often hinder background investigations of persons seeking employment with the United States Government in positions requiring access to sensitive national security information. By removing those barriers, this legislation would enhance our ability to conduct the sort of thorough background investigation necessary to arrive at a reasonable judgment about an individual's trustworthiness. In these times when the United States faces renewed threats of espionage, we believe this legislation would be a valuable weapon against such threats. On behalf of the Agency, I therefore commend it to the Committee on Governmental Affairs for favorable consideration .

The Office of Management and Budget has advised that this report is consistent with the President's legislative program.

Sincerely,

Charles A. Briggs  
Director, Office of Legislative Liaison